

INITIAL STATEMENT OF REASONS

SECTION 20107. STANDARDS FOR PROOF OF RESIDENCY OR IDENTITY WHEN PROOF IS REQUIRED BY HELP AMERICA VOTE ACT.

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

Senate Bill 613 (Perata), Chapter 809, Statutes of 2003, enacted certain provisions required by the federal Help America Vote Act of 2002 ("HAVA"), Pub. L. No. 107-252, 116 Stat. 1666 (2002) [42 U.S.C. 15483]. This bill became effective January 1, 2004, adding Section 2124 to the Elections Code and amending Section 14311 of the Elections Code.

HAVA was drafted in the aftermath of the controversial 2000 presidential election in Florida and signed into law on October 29, 2002 by the President of the United States. Complex and interrelated federal mandates are included in the 161-page bill. Pursuant to subsection (b) of Section 303 of HAVA, a state shall, in a uniform and nondiscriminatory manner, require an individual to meet certain requirements if the individual registered to vote in a jurisdiction by mail and has not previously voted in an election for federal office in the state or has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a state that does not have a HAVA-compliant statewide voter registration computerized list. The requirements depend on whether the individual votes in person or by mail. If the individual votes in person, then he or she must present to the appropriate state or local elections official a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. If the individual votes by mail, then he or she must submit with his or her ballot a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Senate Bill 613 also added Section 2124 to the Elections Code, requiring the Secretary of State to adopt uniform standards for proof of residency, which shall apply to all instances where voters or new registrants are required by law to prove residency. Under HAVA some voters may be required to present identification at the polls and some voters who register by mail or vote by absentee ballot may be required to include a copy of their identification.

Prior to January 1, 2004, Section 14311 of the Elections Code permitted a voter who moved within the same county but had not reregistered to vote at the new address to vote on the day of the election at the polling place of the current address upon showing proof of the current residence address. This section further required the Secretary of State to adopt regulations establishing the forms of identification that would qualify as proof of current residence address. Consequently, the forms of identification were added to Section 20107 in 1996. Senate Bill 613 amended Section 14311, deleting the requirement that a voter must show proof of the current residence address for provisional ballots and the requirement that the Secretary of State adopt corresponding regulations.

SPECIFIC PURPOSE OF THE REGULATION

The Secretary of State proposes to adopt Section 20107 of Article 7 of Chapter 1 of Division 7 of Title 2 of the California Code of Regulations, as amended in the proposed text of the regulations, to establish uniform standards for proof of residency or identity when a voter or new registrant is required by law to provide proof. The proposed regulations provide for two basic types of documentation to prove residency or identity.

The first type of documentation provided for in paragraph (1) of subdivision (d) of Section 20107 is valid and current identification prepared by a third party in the ordinary course of business that includes the photograph and name of the individual presenting it. Examples are listed in paragraph (1) and include, but are not limited to: driver's license or identification card issued by any state; passport; identification card issued by a commercial establishment; credit or debit card; and employee, military, student, health club, or insurance plan identification card.

The second type of documentation that can be used to prove residency or identity consists of those documents listed in paragraph (2) of subdivision (d) of Section 20107 provided that the document includes the name and address of the individual presenting it. The documents listed in paragraph (2) include: utility bill; bank statement; government check or paycheck; and sample ballot, voter notification card, public housing identification card, lease or rental agreement, and student identification card issued by governmental agencies.

The proposed regulations also repeal the language adopt pursuant to Section 14311 of the Elections Code establishing the forms of identification that would qualify as proof of current residence address for provisional ballots.

NECESSITY

HAVA provides federal funding to states conditioned upon the implementation of certain requirements, including the modernization of voting systems, elections official and poll worker training, voter education, accessibility to voting systems by individuals with disabilities or with alternative language needs, establishment of a statewide database, complaint procedure, and provisional balloting among other changes.

Subsection (b) of Section 303 of HAVA specifically states that a state shall, in a uniform and nondiscriminatory manner, require an individual to meet certain requirements if the individual registered to vote in a jurisdiction by mail and has not previously voted in an election for federal office in the state or has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a state that does not have a HAVA-compliant statewide voter registration computerized list. The requirements depend on whether the individual votes in person or by mail. If the individual votes in person, then he or she must present to the appropriate state or local elections official a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter. If the individual votes by mail, then he or she must submit with his or her ballot a copy of a current and valid photo identification or a copy of

a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

The necessity of the proposed regulations is to ensure that the State of California is eligible to receive federal HAVA funding and prevent the disenfranchisement of voters.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORT, OR DOCUMENTS

No technical, theoretical, or empirical study, report, or documents were considered or relied upon.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD BE AS EFFECTIVE AND LESS BURDENSOME TO PRIVATE PERSONS

The Secretary of State has not identified any alternative to the proposed regulatory action that would be as effective and less burdensome to private persons.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS

The Secretary of State does not believe that the regulatory action will have any adverse economic impact on business, as the proposed regulations relate to voting, not business. Therefore, no alternative to the proposed regulatory action has been identified that would lessen any adverse economic impact on small business.